

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

August 20, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Nicholson, Associate Justice; Raye, Associate Justice; and Castillo, Bailiff. Calendar Called.

C031857 THE PEOPLE v. ALVIREZ

Cause called. Nicholas F. Reyes argued for appellant. Susan Rankin Bunting, Deputy Attorney General, waived argument for respondent. Cause submitted.

At 9:48 a.m., the court recessed. At 9:50 a.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Raye and Associate Justice Callahan.

C034423 LOVEJOY v. AT&T CORPORATION

Cause called. Mark C. Barulich argued for appellant. Kevin R. Iams argued for respondent. Cause submitted.

At 10:15 a.m., the court recessed. At 10:18 a.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Callahan and Associate Justice Hull.

C033637 DANAHER, et al. v. DARRAGH CORPORATION

Cause called. Steven J. Bell argued for appellants. Stacy M. Howard argued for respondent. Cause submitted.

At 10:33 a.m., the court recessed. At 2:01 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Nicholson and Associate Justice Kolkey.

C035030 AWAR et al. v. LECLERC et al.

Cause called. Randall L. Wiens argued for appellants. James R. Kirby argued for respondents. Cause submitted.

At 2:32 p.m., the court recessed. At 2:34 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Raye and Associate Justice Kolkey.

C036952 FERGUSON v. AMIRI et al.

Cause called. David E. Frank argued for appellants. Reid P. Schantz argued for respondent. Cause submitted.

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Cause called. Neil Shapiro argued for appellants. Jeffrey B. Setness argued for respondents. Cause submitted.

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At 10:45 a.m., the court recessed. At 10:48 a.m., the court reconvened with Acting Presiding Justice Raye Associate Justice Morrison and Associate Justice Hull.

C034072 THE PEOPLE v. ANDREOTTI

Cause called. Dennis Allan Fischer argued for appellant. David A. Rhodes, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:19 a.m., the court recessed. At 2:07 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Hull.

C035553 THE PEOPLE v. TRAN

Cause called. Curt Richard Zimansky, court appointed counsel, argued for appellant. Julia L. Bancroft, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:39 p.m., the court recessed. At 2:40 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison and Associate Justice Hull.

C035354 THE PEOPLE v. ROBERT ALBERT JOHNSON

Cause called. Kyle Gee, court appointed counsel, made no appearance for appellant. Maureen A. Daly, Deputy Attorney General, appeared only for respondent. Cause submitted.

At 2:40 p.m., the court recessed. At 2:41 p.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Morrison and Associate Justice Hull.

C034325 THE PEOPLE v. TYRONE DANIEL JOHNSON

Cause called. Hilda Scheib, court appointed counsel, argued for appellant. Ruth M. Saavedra, Deputy Attorney General, waived argument for respondent. Cause submitted.

At 2:54 p.m., the court recessed. At 2:56 p.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Morrison.

C036186 MICHALOWSKI v. WILLS et al.

Cause called. Lynn Hubbard III, argued for appellant. Adam Sorrells appeared only. Todd A. Roberts argued for respondents. Cause submitted.

At 3:25 p.m., the court recessed until 9:30 a.m., Wednesday, August 22, 2001.

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- C033470 THE PEOPLE v. PHILPOTT (Not for Publication)**
The judgment (order) is reversed, and the matter is remanded to the superior court to allow Philpott the opportunity to withdraw the stipulation and, in that event, for further proceedings consistent with this opinion. Should he fail to withdraw from the stipulation, the trial court shall reinstate the judgment (order). Philpott shall remain in custody in a secure facility pending further proceedings in the trial court.
HULL, J.
We concur: Scotland, P.J.
 Callahan, J.
- C033925 THE PEOPLE v. HANCOCK (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Kolkey, J.
- C034016 THE PEOPLE v. CRENSHAW, JR. (Not for Publication)**
Defendant's presentence custody credit is modified to reflect 125 days of actual custody credit pursuant to section 2900.5, and 62 days of work/conduct credit pursuant to section 4019. The trial court is ordered to correct the abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. In all other respects, the judgment is affirmed.
HULL, J.
We concur: Blease, Acting P.J.
 Davis, J.
- C035958 THE PEOPLE v. DAVIS (Not for Publication)**
Having concluded defendant is not entitled to relief on his claims, we further reject his contention that the cumulative effect of the alleged errors warrants reversal. Consequently, we affirm the judgment.
HULL, J.
We concur: Raye, Acting P.J.
 Morrison, J.
- C036112 THE PEOPLE v. TERAN (Not for Publication)**
The judgment is modified to strike the \$800 restitution fine imposed pursuant to section 1202.4 on June 20, 2000. The trial court is directed to prepare an amended abstract of judgment striking the \$800 restitution fine and to forward a certified copy to the Department of Corrections.
HULL, J.
We concur: Davis, Acting P.J.
 Callahan, J.

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- C037381 THE PEOPLE v. PEARSON (Not for Publication)**
The judgment is case Nos. SF072814A and SF074703A is modified by imposing in each case: (a) a criminal laboratory analysis fee of \$50 (Health & Saf. Code, § 11372.5, subd. (a)); (b) a \$50 state penalty assessment; and (c) a \$35 county penalty assessment. A correction to the abstract of judgment shall reflect that defendant was ordered to register as a drug offender pursuant to Health and Safety Code section 11590 subdivision (a). The judgment is affirmed in all other respects. The trial court is directed to prepare an amended and corrected abstract of judgment and to send a certified copy to the Department of Corrections.
HULL, J.
We concur: Sims, Acting P.J.
 Callahan, J.
- C037840 THE PEOPLE v. VELADOR (Not for Publication)**
The appeal is dismissed.
NICHOLSON, J.
We concur: Blease, Acting P.J.
 Raye, J.
- C036840 KOBRIN v. DE LA CRUZ (Not for Publication)**
The order denying de la Cruz's motion to vacate the default judgment against her is reversed. The trial court is directed to enter a judgment in favor of Kobrin for damages in the sum of \$25,000, for prejudgment interest in an amount to be calculated by the court based on the \$25,000 in damages award, and for costs in the sum of \$293.50. The parties shall bear their own costs on appeal.
HULL, J.
We concur: Sims, Acting P.J.
 Callahan, J.

August 22, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Davis, Acting Presiding Justice; Callahan, Associate Justice; Kolkey, Associate Justice; and Rios, Bailiff. Calendar Called.

- C035605 CARRILLO v. SACRAMENTO CITY UNIFIED SCHOOL DISTRICT et al.**
Cause called. David A. Prentice argued for appellant. Elisa Ungerman argued for respondents. Cause submitted.
- C035248 KALIS et al. v. LUKENBILL**
Cause called. Lawrence Genaro Papale argued for appellants. Lee Roy Pierce, Jr. argued for respondent. Cause submitted.

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At 10:03 a.m., the court recessed. At 10:07 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison and Associate Justice Callahan.

C036204 MORGAN v. AKINS

Cause called. John R. Hargreaves argued for appellant. David McCaslin, appeared only. Candace M. Pagliero argued for respondent. Cause submitted.

At 10:19 a.m., the court recessed. At 10:22 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison and Associate Justice Hull.

C034001 JAUREGUI v. RAY STONE, INC., et al.

Cause called. Richard J. Davis argued for appellant. Jennifer Duggan argued for respondents. Cause submitted.

At 10:44 a.m., the court recessed. At 10:52 a.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Morrison and Associate Justice Kolkey.

C030444 DEMATES v. STATE STREET BANK et al.

Cause called. Thomas S. Crary argued for appellant and submitted additional citations. Robert F. Sinclair argued for respondent Safeguard Properties. Andrew M. Gold argued for respondents State Street Bank et al. Cause submitted.

At 11:35 a.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Callahan.

C035635 LIMA v. WORKER'S COMPENSATION APPEALS BOARD et al.

Cause called. John R. Holstedt argued for petitioner. Douglas B. Weill argued for respondents American River Fire Protection District et al. Argument not requested by Worker's Compensation Appeals Board. Cause submitted.

C035076 THE PEOPLE v. JACKSON

Cause called. Christopher Blake, court appointed counsel, argued for appellant. Carlos A. Martinez, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:56 p.m., the court recessed until 9:30 a.m., Friday, August 24, 2001.

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- C030492 THE PEOPLE v. COOK et al. (Certified for Partial Publication)**
The judgments of sentence imposing prior prison term enhancements on Matthew Loren Cook and Darrion Troy Gains are vacated and the case is remanded to the trial court for further proceedings consistent with this opinion. In all other respects, the judgments are affirmed. (CERTIFIED FOR PARTIAL PUBLICATION.)
BLEASE, Acting P.J.
We concur: Raye, J.
 Hull, J.
- C031923 THE PEOPLE v. FREEMAN (Not for Publication)**
The judgment is affirmed.
 MORRISON, J.
We concur: Sims, Acting P.J.
 Davis, J.
- C032765 THE PEOPLE v. CLARK (Not for Publication)**
The judgment is affirmed.
 NICHOLSON, Acting P.J.
We concur: Morrison, J.
 Hull, J.
- C033197 THE PEOPLE v. CAIN (Not for Publication)**
The judgment is affirmed.
 RAYE, J.
We concur: Blease, Acting P.J.
 Hull, J.
- C031484 WOO-MING v. MARTINEZ-SEFTNER (Not for Publication)**
The judgment is affirmed.
 NICHOLSON, Acting P.J.
We concur: Raye, J.
 Hull, J.
- C034638 YARBROUGH v. BOARD OF RETIREMENT OF SAN JOAQUIN, etc. (Not for Publication)**
The judgment is affirmed.
 MORRISON, J.
We concur: Raye, Acting P.J.
 Hull, J.

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C037253 THE PEOPLE v. WEATHERMAN (Not for Publication)

The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Nicholson, J.

Raye, J.

C034064 WOLFE v. WOLFE (Certified for Partial Publication)

The judgment is modified to strike Phillip's \$3,112.50 reimbursement to the community for payment of taxes on his separate property, and affirmed as modified. Phillip and Joyce shall bear their own costs on appeal. (CERTIFIED FOR PARTIAL PUBLICATION.)

CALLAHAN, J.

We concur: Davis, Acting P.J.

Raye, J.

August 24, 2001

MISC. ORDER

2001-08

By the Court:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77 and 78, during the absence of the Presiding Justice from the court on August 27, 2001, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Scotland, P.J.

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Sims, Acting Presiding Justice; Davis, Associate Justice; Morrison, Associate Justice; and Rios, Bailiff. Calendar Called.

C034813 CITY OF STOCKTON v. ALBERT BROCCINI FARMS, INC.

Cause called. John H. McKinley argued for appellant. Ronald J.D'Aiuto argued for respondent. Cause submitted.

C035668 TARA GROGAN, a Minor, etc. v. ALTA CALIFORNIA REGIONAL CENTER et al.

Cause called. Linda D. Deos argued for appellant. Richard C. Creeggan argued for respondents Alta California Regional Center et al. and submitted additional citations. Ted A. Smith argued for respondent Vaughn and submitted additional citations. Associate Justice Raye recused himself and Associate Justice Morrison has been assigned to take his place pursuant to Acting Presiding Justice Sims. Cause submitted.

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At 10:30 a.m., the court recessed. At 10:38 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Callahan and Associate Justice Kolkey.

C034815 COUNTY OF SACRAMENTO v. SCHLOCKER

Cause called. Michael E. Barber argued for appellant. William Peak, Deputy District Attorney, argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 1:59 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Morrison and Associate Justice Callahan.

**C032042 CONNERLY v. STATE PERSONNEL BOARD et al. and CALIFORNIA
BUSINESS COUNCIL FOR EQUAL OPPORTUNITY et al.**

Cause called. Anthony T. Caso argued for appellant and submitted additional citations. Sharon L. Browne appeared only. Elsie S. Rose appeared only for State Personnel Board. Jeffrey L. Bleich argued for real party in interest. Manuel M. Medeiros, Senior Assistant Attorney General, argued for respondents Philip Angelides etc. et al. Jeff Marschner appeared only. Ralph Black, argued for respondents Thomas Nussbaum, etc. et al. No appearance for respondent Kathleen Connell etc. Cause submitted.

At 3:23 p.m., the court recessed. At 3:27 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Raye and Associate Justice Morrison.

**C032246 CALIFORNIA ASSOCIATION OF HIGHWAY PATROLEM v. DEPARTMENT
OF PERSONNEL ADMINISTRATION et al.**

Cause called. Richard J. Romanski and John W. Spitler argued for appellant. Anthony M. Santana appeared only. Linda A. Mayhew and Howard L. Schwartz argued for respondents Personnel Administration et al. Roy J. Chastain appeared only. No appearance for respondent Kathleen Connell etc. Cause deferred.

At 4:06 p.m., the court recessed. At 4:42 p.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Morrison and Associate Justice Kolkey.

C029948 KROUGH v. REYNOLDS PACKING, INC.

Cause called. James J. Banks argued for appellant. Kent B. Seitzinger argued for respondent and submitted additional citations. Cause submitted.

At 4:42 p.m., the court recessed until 9:30 a.m., Monday, September 17, 2001.

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- C034851 THE PEOPLE v. KHEN (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Raye, Acting P.J.
Morrison, J.
- C036605 THE PEOPLE v. LOWRY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Sims, Acting P.J.
Davis, J.
- C036986 THE PEOPLE v. SANFORD (Not for Publication)**
The judgment is modified to stay the sentence for the robbery conviction. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
HULL, J.
We concur: Davis, Acting P.J.
Raye, J.
- C036993 THE PEOPLE v. ROBLETO (Not for Publication)**
The judgment is affirmed. However, we direct the trial court to prepare a corrected abstract of judgment to correctly reflect: (1) defendant was convicted of a violation of section 470b rather than section 470, subdivision (b); and (2) the trial court imposed a \$300 mandatory restitution fine under section 1202.4, subdivision (b). We further direct the trial court to forward a certified copy of the corrected abstract to the Department of Corrections.
HULL, J.
We concur: Sims, Acting P.J.
Davis, J.
- C033637 RICHARD B. DANAHER, SR., et al. v. DARRAGH CORPORATION (Not for Publication)**
The judgment is reversed. Plaintiffs are awarded their costs on appeal.
HULL, J.
We concur: Nicholson, Acting P.J.
Callahan, J.

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**C036546 In re WILLIAM T. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH
AND HUMAN SERVICES v. TONY T.**

(Not for Publication)

The juvenile court's orders are affirmed.

HULL, J.

We concur: Davis, Acting P.J.

Raye, J.

C036727 In re STEVEN H.; THE PEOPLE v. STEVEN H.

(Not for Publication)

The judgment (order committing the minor to CYA) is affirmed.

HULL, J.

We concur: Davis, Acting P.J.

Callahan, J.